

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

KRISTIAN HILLEARY, #300 572,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:21-CV-609-MHT-SMD
)	[WO]
ALDOC, et al.,)	
)	
Defendants.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

Plaintiff, an inmate incarcerated at the Bullock Correctional Facility, filed this *pro se* 42 U.S.C. § 1983 action on September 13, 2021. Plaintiff filed an affidavit in support of a Motion for Leave to Proceed In Forma Pauperis. Doc. 3. The motion, however, did not include the required documentation from the inmate account clerk. The Court, therefore, did not have the information necessary to determine whether Plaintiff should be allowed to proceed in forma pauperis in this case and entered an Order on October 12, 2021, requiring Plaintiff to provide the Court with this information on or before October 26, 2021. Doc. 4 at 1-2. Plaintiff filed a response to the October 12, 2021, Order on October 27, 2021. Doc. 6. The response, however, again failed to comply with the specific directives in the Order requesting information regarding his inmate account, and by Order of October 28, 2021, the Court granted Plaintiff an additional opportunity to submit the appropriate information. Doc. 7. The Court specifically cautioned Plaintiff that failure to comply with Order of October 28 would result in a Recommendation this case be dismissed. Doc. 7 at 1–2.

The requisite time has passed and Plaintiff has not complied with the Order of October 28, 2021. The Court, therefore, concludes that this case is due to be dismissed. *Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989) (holding that as a general rule, where a litigant has been forewarned, dismissal for failure to obey a court order is not an abuse of discretion.); *see also Tanner v. Neal*, 232 F. Appx. 924 (11th Cir. 2007) (affirming *sua sponte* dismissal without prejudice of inmate's § 1983 action for failure to file an amended complaint in compliance with court's prior order directing amendment and warning of consequences for failure to comply).

Accordingly, the undersigned Magistrate Judge RECOMMENDS this case be DISMISSED without prejudice.

It is ORDERED that objections to the Recommendation must be filed **by December 29, 2021**. Any objections filed must specifically identify the factual findings and legal conclusions in the Magistrate Judge's Recommendation to which a party objects. Frivolous, conclusive or general objections will not be considered by the District Court. This Recommendation is not a final order and, therefore, it is not appealable. Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar a party from a *de novo* determination by the District Court of factual findings and legal issues covered in the report and shall "waive the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions" except upon grounds of plain error if necessary in the interests of justice. 11th Cir. R. 3-1; *see Resolution Trust Co. v. Hallmark Builders, Inc.*, 996 F.2d 1144, 1149 (11th Cir.1993); *Henley v. Brown*, 885 F.2d 790, 794 (11th Cir. 1989).

DONE this 15th day of December, 2021.

/s/ Stephen M. Doyle
STEPHEN M. DOYLE
CHIEF UNITED STATES MAGISTRATE JUDGE